



## FEDERAL EMPLOYER IDENTIFICATION NUMBER

For internal State agency processing, please provide your company's Federal Employer Identification Number or alternate identification number (e.g. Social Security Number). Pursuant to North Carolina General Statute 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

**This page is to be filled out and returned with your quote.**

**ID Number:**

\_\_\_\_\_  
Federal ID Number or Social Security Number

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## STATE OF NORTH CAROLINA

### Division of Purchase and Contract

Refer **ALL** Inquiries regarding this  
RFQ to:

Grant F. Braley

Category Manager

Email: [grant.braley@doa.nc.gov](mailto:grant.braley@doa.nc.gov)

Phone: (919) 807-4519

Fax: (919) 807-4510

Request for Quote # 2018-568

Quotes will be publicly opened: **May 4, 2018**

Contract Type: **Quote**

Commodity: **675-00: Poisons, Agricultural & Industrial**

Using Agency: **\*\*\* PURCHASE & CONTRACT \*\*\***

#### EXECUTION

In compliance with this Request for Quote, and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this quote, the undersigned Vendor certifies that this quote is submitted competitively and without collusion (G.S. 143-54), that none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that it is not an ineligible Vendor as set forth in G.S. 143-59.1. False certification is a Class I felony. Furthermore by executing this quote, the undersigned certifies to the best of Vendor's knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency. As required by G.S. §143-48.5, the undersigned Vendor certifies that it, and each of its sub-contractors for any Contract awarded as a result of this RFQ, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public Contract; or awarding or administering public Contracts; or inspecting or supervising delivery of the public Contract of any gift from anyone with a Contract with the State, or from any person seeking to do business with the State. By execution of any response in this quote, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

**Failure to execute/sign quote prior to submittal shall render quote invalid and it may be rejected.**

VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #11):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:		FAX NUMBER:
VENDOR'S AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

Offer valid for at least 120 days from date of quote opening, unless otherwise stated here: \_\_\_\_\_ days. After this time, any withdrawal of offer shall be made in writing, effective upon receipt by the agency issuing this RFQ.

#### ACCEPTANCE OF QUOTE

If any or all parts of this quote are accepted by the State of North Carolina, an authorized representative of the Division of Purchase & Contract shall affix his/her signature hereto and this document and all provisions of this Request for Quote along with the Vendor response and the written results of any negotiations shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor(s).

**FOR STATE USE ONLY:** Offer accepted and Contract awarded this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as indicated on the attached certification, by \_\_\_\_\_  
(Authorized Representative of the Division of Purchase & Contract).

## 1.0 PURPOSE AND BACKGROUND

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### 1.1 OVERVIEW

The purpose of this RFQ is to add **Additional Agricultural Chemicals** to the existing **Statewide Term Contract 675A for Agricultural Chemicals: Fungicides, Herbicides, Insecticides, Pesticides & Adjuvants** throughout the State of North Carolina. The contract resulting from this RFQ is mandatory for State departments and most State Agencies, and by State higher education institutions (except under the conditions specified in G.S. 115D-58.14(a) and G.S. 116-13). The Contract may also be utilized, without further competition, by non-mandatory State Agencies and Other Eligible Entities.

Quotes shall be submitted in accordance with the terms and conditions of this RFQ and any addenda issued hereto.

### 1.2 REGIONS

The State will be divided up into **fourteen (14) regions** to allow maximum coverage and lower delivery costs.

- Region I:** Camden, Currituck, Dare, Gates, Pasquotank, Perquimans, Bertie, Hertford, Northampton, Chowan, Hyde, Martin, Tyrrell, Washington
- Region II:** Beaufort, Pitt, Carteret, Craven, Pamlico, Greene, Jones, Lenoir
- Region III:** Onslow, Pender, Duplin, Sampson, Brunswick, New Hanover
- Region IV:** Edgecombe, Halifax, Nash, Wilson, Johnston, Wayne
- Region V:** Wake, Durham, Granville, Person, Franklin, Vance, Warren
- Region VI:** Robeson, Cumberland, Harnett, Bladen, Columbus
- Region VII:** Alamance, Orange, Guilford, Caswell, Rockingham
- Region VIII:** Chatham, Randolph, Hoke, Lee, Moore, Montgomery, Richmond, Scotland
- Region IX:** Davidson, Rowan, Davie, Forsyth, Stokes
- Region X:** Cabarrus, Stanly, Mecklenburg, Anson, Union
- Region XI:** Alleghany, Surry, Yadkin, Avery, Caldwell, Watauga, Ashe, Wilkes
- Region XII:** Alexander, Catawba, Cleveland, Gaston, Iredell, Lincoln
- Region XIII:** Burke, McDowell, Mitchell, Rutherford, Buncombe, Madison, Yancey
- Region XIV:** Henderson, Polk, Transylvania, Haywood, Jackson, Swain, Cherokee, Clay, Graham, Macon

## 2.0 GENERAL INFORMATION

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### 2.1 REQUEST FOR QUOTE DOCUMENT

The RFQ is comprised of the base RFQ document, any attachments, and any addenda released before Contract award. All attachments and addenda released for this RFQ in advance of any Contract award are incorporated herein by reference.

## 2.2 E-PROCUREMENT SOLICITATION

**ATTENTION: This is an E-Procurement solicitation. See paragraph #18 of Attachment D: North Carolina General Contract Terms and Conditions.**

The Terms and Conditions made part of this solicitation contain language necessary for North Carolina's Statewide E-Procurement Services. It is the Vendor's responsibility to read these terms and conditions carefully and to consider them in preparing the offer. By execution of its quote, Vendor agrees to and acknowledges acceptance of all terms and conditions, including those related to E-Procurement usage. General information on the E-Procurement Services can be found at: <http://eprocurement.nc.gov/>.

## 2.3 NOTICE TO VENDORS REGARDING TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions, the State's terms and conditions, all relevant exhibits and attachments, and any other components made a part of this RFQ, and comply with all requirements and specifications herein. Vendors also are responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this RFQ.

If Vendors have questions, issues, or exceptions regarding any term, condition, instruction or other component within this RFQ, those must be submitted as questions to the Agency prior to execution. If the State determines that any changes will be made as a result of the points raised, then such decisions will be communicated in the form of an addendum. Other than through this process, the State will reject and shall not be required to evaluate or consider any additional or modified terms and conditions or Instructions to Vendor submitted with Vendor's response. This applies to any language appearing in or attached to the document as part of the Vendor's response that purports to vary any terms and conditions or Vendors' instructions herein or to render the quote non-binding or subject to further negotiation. **By execution and delivery of a response to this RFQ, Vendor agrees that any additional or modified terms and conditions, including Instructions to Vendors, whether submitted purposely or inadvertently, or any purported condition to the offer shall have no force or effect, and will be disregarded. Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's Quote.**

## 2.4 MAILING INSTRUCTIONS

- **Instructions:** Quotes, subject to the conditions made a part hereof and the receipt requirements described below, shall be received at the address indicated in the table below, for furnishing and delivering those items as described herein.

MAILING ADDRESS FOR DELIVERY OF QUOTE VIA U.S. POSTAL SERVICE	OFFICE ADDRESS FOR DELIVERY BY ANY OTHER MEANS, SPECIAL DELIVERY, OVERNIGHT DELIVERY, OR BY ANY OTHER CARRIER
<b>QUOTE NUMBER: 2018-568</b> Department of Administration Attn: Grant F. Braley Division of Purchase and Contract 1305 Mail Service Center Raleigh, NC 27699-1305	<b>QUOTE NUMBER: 2018-568</b> Department of Administration Attn: Grant F. Braley Division of Purchase and Contract 116 W. Jones Street Raleigh, NC 27603

Quotes may be submitted via facsimile (FAX) machine or by electronic means, including but not limited to e-mail, in response to this Request for Quote.

## 2.5 QUOTE CONTENTS

Vendor shall populate all attachments of this RFQ that require the Vendor to provide information and include an authorized signature where requested, as outlined below. Vendor Responses shall include the following items and they should be arranged in the following order:

- a) Completed & signed version of EXECUTION PAGE, and signed receipt pages of any addenda released in conjunction with this RFQ.
- b) Completed version of ATTACHMENT A: PRICING SUMITTAL FORM
- c) Completed version of ATTACHMENT B: LOCATION OF WORKERS UTILIZED BY VENDOR
- d) ATTACHMENT C: INSTRUCTIONS TO VENDORS
- e) ATTACHMENT D: NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS
- f) Completed and signed version of ATTACHMENT E: IRAN DIVESTMENT ACT
- g) ATTACHMENT F: CERTIFICATION OF FINANCIAL CONDITION
- h) ATTACHMENT G: SUPPLIER INFORMATION

## 2.6 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

- a) **BAFO:** Best & Final Offer, submitted by a vendor to alter its initial quote, made in response to a request by the issuing agency.
- b) **BUYER:** The employee of the State or Other Eligible Entity that places an order with the Vendor.
- c) **COMMUNITY COLLEGES:** All fifty-eight (58) public North Carolina Community Colleges.
- d) **CONTRACT LEAD:** Representative of the [State entity] who corresponds with potential Vendors in order to identify and contract with that Vendor providing the greatest benefit to the State and who will administer the contract for the State.
- e) **E-PROCUREMENT SERVICES:** The program, system, and associated services through which the State conducts electronic procurement.
- f) **EXTENDED PRICE:** The total price for quote for line item within the quote.
- g) **FOB-DESTINATION:** Title changes hand from Vendor to purchaser at the destination point of the shipment; Vendor owns commodity in transit and files any claims, and Vendor pays all freight and any related transportation charges. A solicitation may request Vendors to separately identify freight charges in their quote, but no amount or charge not included as part of the total quote price will be paid.
- h) **ON-TIME DELIVERY:** The delivery of all ordered items to the receiving point designated by the ordering entity within the delivery time required.
- i) **OTHER ELIGIBLE ENTITIES:** Entities, other than State Agencies, that are authorized to participate in and purchase from a Statewide Term Contract by complying with State rules and procedures and the terms and conditions set forth in the Contract resulting from this solicitation, including Non-profit corporations operating charitable hospitals; Local non-profit community sheltered workshops or centers that meet standards established by the Division of Vocational Rehabilitation of the Department of Health and Human Services; Private non-profit agencies licensed or approved by the Department of Health and Human Services as child placing agencies, residential child-care facilities; Private nonprofit rural, community, and migrant health centers designated by the Office of Rural Health and Resource Development; Public and Private higher education institutions; Counties, cities, towns, and other local governmental entities; Public school units; Volunteer fire departments, rescue squads.
- j) **RFQ:** Request For Quote.
- k) **SDS:** Safety Data Sheet.
- l) **STATE:** Refers to the State of North Carolina, including any of its sub-units recognized under North Carolina law.
- m) **STATE AGENCY:** Any of the more than 400 sub-units within the executive branch of the State, including its departments, boards, commissions of higher education and other institutions.
- n) **STATE DEPARTMENTS:** Department of Administration, Department of Agriculture and Consumer Services, Department of Commerce, Department of Natural and Cultural Resources, Department of Environmental Quality, Department of Health and Human Services, Department of Information Technology, Department of Insurance, Department of Justice, Department of Labor, Department of Military and Veteran Affairs, Department of Public Instruction, Department of Public Safety, Department of Revenue, Department of State Treasurer, Department of the Secretary of the State, Department of Transportation, Wildlife Resources Commission, , Office of Budget and Management, Office of the Governor, Office of the Lieutenant Governor, Office of The State Auditor, Office of the State Controller.
- o) **STATEWIDE TERM CONTRACT:** A Term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this quote.
- p) **TOTAL EXTENDED PRICE:** The sum of all extended prices.
- q) **VENDOR:** Supplier, bidder, proposer, company, firm, corporation, partnership, individual, or other entity submitting a response to a Request for Quote.

### 3.0 METHOD OF AWARD AND QUOTE EVALUATION PROCESS

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#### 3.1 METHOD OF AWARD

It is the intention of the State to award this RFQ by making multiple awards for each **agricultural chemical (fungicide, herbicide, insecticide, pesticide and adjuvant)** per region based on the lowest price per unit of measure (UOM) offered for both "Brand Specific" and "Generic" products for each item. **A Vendor may bid on one (1) or more regions.**

Pursuant to G.S. 143-52, all qualified quotes will be evaluated and awards will be made to Vendors meeting the RFQ requirements and achieve the highest and best final evaluation, as described below. While the intent of this RFQ is to award a Contract(s) to a single Vendor, the State reserves the right to make separate awards to different Vendors for one or more line items, to not award one or more line items or to cancel this RFQ in its entirety without awarding a Contract, if it is considered to be most advantageous to the State to do so. The status of a Vendor's e-Procurement Services account(s) shall be considered a relevant factor in determining whether to approve the award of a contract under this RFQ. Any Vendor with an E-Procurement Services account that is in arrears by 91 days or more at the time of quote opening may, at the State's discretion, be disqualified from further evaluation or consideration. The State reserves the right to waive any minor informality or technicality in quotes received.

#### 3.2 PERFORMANCE OUTSIDE THE UNITED STATES

Vendor shall complete ATTACHMENT B: LOCATION OF WORKERS UTILIZED BY VENDOR. In addition to any other evaluation criteria identified in this RFQ, the State may, for purposes of evaluating proposed or actual contract performance outside of the United States, also consider how that performance may affect the following factors to ensure that any award will be in the best interest of the State:

- a) Total cost to the State
- b) Level of quality provided by the Vendor
- c) Process and performance capability across multiple jurisdictions
- d) Protection of the State's information and intellectual property
- e) Availability of pertinent skills
- f) Ability to understand the State's business requirements and internal operational culture
- g) Particular risk factors such as the security of the State's information technology
- h) Relations with citizens and employees
- i) Contract enforcement jurisdictional issues

#### 3.3 QUOTE EVALUATION PROCESS

1. Quotes are requested for the items as specified, or item(s) equivalent in design, function and performance. The State reserves the right to reject any quote on the basis of fit, form and function as well as cost.
2. The State shall review the responses to this RFQ to confirm that they meet the specifications and requirements. The State reserves the right to waive any minor informality or technicality.
3. For all responses that pass the initial review process, the State will review and assess the Vendors' pricing. The State may request additional formal responses or submissions from any or all Vendors for the purpose of clarification or to amplify the materials presented in any part of the quote. Vendors are cautioned, however, that the State is not required to request clarification, and often does not. Therefore, all quotes should be complete and reflect the most favorable terms available from the Vendor. Prices bid cannot be altered or modified as part of a clarification.
4. Quotes will be evaluated, based on the award criteria identified in Section 3.1 METHOD OF AWARD.

Award of a Contract to one Vendor does not mean that the other quotes lacked merit, but that, all factors considered, the selected quote was deemed most advantageous and represented the best value to the State. Vendors are cautioned that this is a request for quote, not a request or an offer to contract, and the State reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of the State.

**NOTE:** During the evaluation period and prior to award, all information concerning the quote and evaluation is confidential, and possession of the quotes and accompanying information is limited to personnel of the issuing agency and any third parties involved in this procurement process, and to the committee responsible for participating in the evaluation. Any attempt on behalf of a Vendor to gain such confidential information, or to influence the evaluation process (e.g., contact anyone involved in the evaluation, criticize another Vendor, offer any benefit or information not contained in the quote) in any way is a violation of North Carolina purchasing law and regulations and shall constitute sufficient grounds for disqualification of Vendor's offer from further evaluation or consideration in the discretion of the State.

## 4.0 REQUIREMENTS

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This Section lists the requirements related to this RFQ. By submitting a quote the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements and terms and conditions stated in this RFQ.

### 4.1 CONTRACT TERM

The Contract shall have a **term from the date of an award through February 28, 2021 with the option to renew for two (2) additional one-year periods**. The State will give the Vendor written notice of its intent whether to exercise each option no later than 90 days before the end of the Contract's then-current term. In addition, the State reserves the right to extend a contract term for a period of up to 180 days in 90-day-or-less increments.

### 4.2 CONTRACT VALUE

The total potential purchases for all manufacturers under this Contract by mandatory and non-mandatory entities could exceed **\$1,000,000.00** during the initial three-year Contract term.

### 4.3 ESTIMATED QUANTITIES

All product quantities listed in the RFQ are estimates based on the State's historical and anticipated needs. The State shall not be obligated to purchase the amount represented by the estimated quantities contained herein or any other quantities.

### 4.1 MINIMUM ORDERS

The minimum order, qualifying for prepaid transportation, is **\$500.00 for any single order**. The State shall be required to use this contract for orders less than the minimum order amount. However, in such cases the order will be shipped prepaid and actual transportation charges may be added to the invoice as a separate line item. The transportation costs charged for orders below the minimum order amount should be commensurate with or less than shipping charges of major small package shippers such as the US Postal Service. No surcharge or handling charge shall be added or assessed for such orders. Vendor must provide an estimated shipping amount to the Buyer upon request.

### 4.2 PACKAGING AND STORAGE

Refer to ATTACHMENT D: NORTH CAROLINA GENERAL TERMS AND CONDITIONS, Paragraph 9, Condition and Packaging.

- a. Material shall be packed in new, unused containers of suitable materials, preferably recyclable (where available).
- b. All containers shall be properly labeled with the Vendor's label as registered with the United States Environmental Protection Agency and the North Carolina Department of Agriculture, if required.
- c. Each container shall be filled with product that meets the analysis guaranteed on the label.
- d. Each container shall contain not less than the amount of material indicated on the label.
- e. The chemicals shall be capable of storage for at least twelve (12) months from time of delivery at temperatures down to 0°F without crystallization or deterioration

### 4.3 DESCRIPTIVE LITERATURE AND PRICE LISTS

Each Vendor should submit with the quote a complete set of the manufacturer's published literature and price list(s) which cover all products offered herein. Altered, or unpublished price lists/literature may subject your quote to rejection. The Vendor is advised that literature, questionnaires, and other data submitted in response to a previous RFQ will not suffice for the above requirement nor for any other information or questionnaire responses. The successful Vendor shall furnish price lists, catalogs, and descriptive literature to any using agency upon request of the agency.

**For this quote, no extra information is required for items where yes for "Brand Specific" item is stated. The Vendor only needs to provide this descriptive literature for items where any brand meeting the stated description is acceptable.**



#### 4.4 TRANSPORTATION AND IDENTIFICATION OF GOODS

Unless otherwise specified in **ATTACHMENT A**, the Vendor shall deliver **Free-On-Board (FOB) Destination** to any location within the awarded region with all transportation costs included in the total quote price for items over minimum order amount within **five (5) business days** after a receipt of an order. If the Vendor is unable to make the above delivery timeframe, please state here the earliest guaranteed delivery time you can offer \_\_\_\_\_ days. The State reserves the right to evaluate delivery offered in determining the award of the proposed contract. **Delivery will be made from \_\_\_\_\_ (city, state). A SDS must be supplied with each delivery.**

When an order is placed using a purchase order, the purchase order number shall be shown on all packages and shipping manifests to ensure proper identification and payment of invoices. If an order is placed without using a purchase order, such as via phone, the Buyer's name shall be shown on all packages. A complete packing list shall accompany each shipment. Vendors shall not ship any products until they have received an order.

Can a user pick up contract item(s) from the Vendor's location, if desired? ☐ Yes ☐ No

If yes, will an additional discount apply? ☐ Yes ☐ No

If additional discount applies, the discount will be \_\_\_\_\_%.

The State reserves the right to consider this option as a factor in the award of the contract.

List Locations where items may be picked up:

- |          |          |
|----------|----------|
| a. _____ | b. _____ |
| c. _____ | d. _____ |
| e. _____ | f. _____ |

Vendors are cautioned that excessively long delivery schedules, as determined by this Division, may be cause for non-award. The state expects that the delivery schedule offered herein to be firm and fully expects compliance with the stated delivery schedule. Failure of the Vendor to meet contracted delivery schedules shall constitute cause for removal from the contract. In the event the delivery is not received within the contract delivery period, the Vendor may be held in default in accordance with ATTACHMENT D, DEFAULT AND PERFORMANCE BOND, in the North Carolina General Contract Terms and Conditions, and the State may procure the articles or services from other sources and hold the Vendor responsible for any excess cost occasioned thereby.

#### 4.5 INTEGRATED PEST MANAGEMENT (IPM)

Do manufacturers recommend using IPM programs for any of the items/products offered? ☐ Yes ☐ No

If so, list the Item # as referenced in ATTACHMENT A:

- |          |          |          |          |          |
|----------|----------|----------|----------|----------|
| a. _____ | b. _____ | c. _____ | d. _____ | e. _____ |
| f. _____ | g. _____ | h. _____ | i. _____ | j. _____ |

If additional products need to be referenced, the Vendor may submit additional pages.

#### 4.6 SUBSTITUTIONS

Substitutions are not permitted without prior written approval of this division. Failure of the Vendor to comply with this requirement may result in the removal of the Vendor from the contract.

#### 4.7 SAFETY DATA SHEETS

In addition to meeting Federal and State laws and requirements concerning hazardous chemicals, successful Vendor shall forward with each delivery a proper and current SDS. Furthermore, the successful Vendor shall furnish the State and/or its agencies, additional SDS as requested.

#### 4.8 PRODUCT RECALL

Vendor expressly assumes full responsibility for prompt notification to the Buyer listed on the face of this RFQ of any product recall in accordance with the applicable state or federal regulations. The Vendor shall support the State, as necessary, to promptly replace any such products, at no cost to the State.

#### 4.9 RETURN/RESTOCKING POLICY

Vendor shall accept merchandise returns from users for a period of thirty (30) business days after delivery. Vendor shall provide full credit or full refund to users, whichever a user requests, within thirty (30) business days on all returns of ordered products that are in original packaging and in re-sellable conditions. Vendor shall not impose a restocking fee on the State for merchandise that has been returned, unless it is a specialty item and the State has been notified in writing or at the time of order placement of the potential restocking fee. If any item is returned due to damage, incorrect product shipped, Vendor order entry error, or any other cause reasonably assumed to be the fault of the Vendor, the Vendor shall not impose a restocking fee.

Merchandise which is unacceptable because of quality problems, duplicated shipments, outdated product, breakage, or other issues related to Vendor or product performance, shall be returned at Vendor's expense within five (5) business days after receipt of notification from the Ordering Entity; with no restocking charge.

#### 4.10 DAMAGED & DEFECTIVE PRODUCTS

Products with apparent damage upon receipt will be rejected and delivery refused. The State facility will notify the Vendor of the damaged product. The Vendor will replace the damaged product within 24 hours, upon reorder by the State facility.

In the event that a product is found to be defective, Vendor agrees to replace the item within five (5) business days at no additional charge to the State. Failure to do so may cause Vendor to become ineligible to receive future contract awards or purchase orders.

#### 4.11 WARRANTY

Vendor guarantees items offered to be free from any and all defects in material, packaging and workmanship and agrees to replace defective items promptly at no charge to the State, based on the manufacturer's standard warranty.

#### 4.12 AUTHORIZED RESELLER

The Vendor shall be authorized by the manufacturer to resell the products and/or maintenance offered in this IFB. The Vendor shall provide with its quote a signed statement from the manufacturer confirming authorization. Failure to provide the statement shall constitute sufficient grounds for rejection of Vendor's offer, in the discretion of the State.

Vendor is the: ☐ Manufacturer ☐ Dealer ☐ Reseller ☐ Distributor

Authorized: ☐ YES ☐ NO

Attached Manufacturer's Authority: ☐ YES ☐ NO

If the Vendor is the sole authorized distributor/dealer in North Carolina for this(these) product(s), then the Vendor must submit with its quote a written statement from the manufacturer and on the manufacturer's letterhead that your company is the sole authorized distributor/dealer in North Carolina for this(these) product(s) for the State of North Carolina's users and that no other dealer/distributor are allowed to quote this(these) product(s) to the State of North Carolina's government users.

#### 4.13 SAMPLES

Samples are not required prior to quote opening date, however, if requested later, they shall be required for any line item(s). Such samples are due at a location to be specified in Raleigh, NC, **within (5) business days after request**, and are to be properly identified with line item number, Vendor's name and model number, and are to be delivered **FOB DESTINATION**. Samples may be retained for any length of time until contract expiration, and will be returned to the respective Vendor(s) at its expense.

#### 4.14 FINANCIAL STABILITY

Each Vendor shall certify that it is financially stable by completing the ATTACHMENT F: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from Contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification.

#### 4.15 REFERENCES

Vendor shall provide up to three (3) references for which it has provided goods of substantially the same features and quantity to those solicited herein. The State may contact these users to determine the goods provided are substantially similar to those proposed herein and Vendor's performance has been satisfactory. Such information may be considered in the evaluation of the quote.

COMPANY NAME	CONTACT NAME	TELEPHONE NUMBER

### 5.0 PRODUCT SPECIFICATIONS

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#### 5.1 MANUFACTURER/BRAND NAME/ALTERNATE PRODUCTS

Some manufacturer(s) name and product descriptions used in this solicitation are product specific. The items offered in response to this solicitation must be the manufacturer and type specified. These specific products are needed due to compatibility; continuity of support and research purposes; **reference Items 1 and 10 in ATTACHMENT A denoted in green.**

**Vendors must state the manufacturer and brand name for all alternate products being offered. All items including "Brand Specific" allows the Vendor to submit an alternate product for consideration. Container sizes are specified and should be quote accordingly, unless the container size requested is not manufactured in that particular size.** Successful Vendors must supply the product as stated in their quote.

**An item/product label and SDS must be submitted with quote for all alternate items/products offered. Vendors that do not supply this information with its quote may be subject to rejection.**

## 5.2 DEVIATIONS

The nature of all deviations from the Specifications/Requirements listed herein shall be clearly described by the Vendor. Otherwise, it will be considered that items offered by the Vendor are in strict compliance with the Specifications/Requirements, and the successful Vendor shall be held responsible to supply conforming goods. Deviations must be explained in detail below or on an attached sheet. However, no implication is made or intended by the State that any deviation will be acceptable.

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## 5.3 SUSTAINIBILITY

According to the NC General Statute 143-58.2, it is the policy of this State to encourage and promote the purchase of products with recycled content and to purchase items that are reusable, refillable, repairable, more durable and less toxic to the extent that the purchase or use is practicable and cost effective.

Do the items offered have any recycled content? ☐ Yes ☐ No

If yes, what is the post-consumer recycled content? \_\_\_\_\_% What is the total recycled content? \_\_\_\_\_%

Does the packaging for the items being offered have any recycled content? ☐ Yes ☐ No

If yes, what is the post-consumer recycled content? \_\_\_\_\_% Can this packaging be recycled? ☐ Yes ☐ No

**Other sustainable properties:**

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## 6.0 CONTRACT ADMINISTRATION

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### 6.1 ACCOUNT MANAGER AND CUSTOMER SERVICE

The Vendor shall designate and make available to the State an account manager. The account manager shall be the State's point of contact for contract related issues and other matters which need to be escalated above customer service representatives. The account manager shall be available 8:00 AM to 6:00 PM ET on State business days. If the account manager is out of the office, for any reason, the account manager shall designate an alternate point of contact.

The Vendor shall establish unique customer identification numbers for use by each individual Ordering Entity. Some Ordering Entities may require multiple customer identification numbers.

### 6.2 HAZARDOUS SUBSTANCE AND/OR OIL SPILLS

Vendors hired by the end user shall be responsible for any costs (direct or indirect) associated with damage and/or cleanup of a hazardous substance and/or oil spill caused by the Vendor or their agent. This responsibility shall extend to freight carriers who were hired by the Vendor to deliver the commodity or service to the end user. While on end user premises, the Vendor shall comply with all local, State and Federal requirement for the proper handling of hazardous substances and/or oil.

For the purpose of this section, hazardous substances shall be defined as any substance, other than oil, which when discharged in any quantity may present an imminent and substantial danger to the public health, welfare AND/OR environment. Oil shall be defined as any oil of any kind and in any form, including but specifically not limited to petroleum, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, petroleum related products or by-products, and all other liquid hydrocarbons, regardless of specific gravity, whether singly or in combination with other substances. In addition, the Vendor agrees to indemnify and hold the end user harmless against all claims, liabilities and costs, including attorney's fees, incurred in the defense of any claim brought against the end user resulting from such as spill.

### 6.3 INVOICES

Vendor shall invoice the Ordering Entity. The standard format for invoicing shall be Single Invoices meaning that the Vendor shall provide the Buyer with an invoice for each order. Invoices must include detailed line item information to allow Buyer to verify pricing at point of receipt matches the correct price from the original date of order. At a minimum, the following fields must be included on all invoices.

- Vendor's Billing Address, Customer Account Number, NC Contract Number, Order Date, Buyers Order Number, Manufacturer Part Numbers, Vendor Part Numbers, Item Descriptions, Cylinder Size, Price, Quantity, Unit of Measure, and Additional Delivery Charges (as a separate line item).

At a Buyer's request, the Vendor shall provide Consolidated Invoicing. A Buyer may request the Consolidated Invoice including a summary of orders in addition to detailed line item information. Consolidated Invoices are to be provided on a cycle and format determined by the Authorized User. In addition to the fields listed above for a standard invoice, Consolidated Invoices are required to include the following data elements:

- Order Dates for Each Order, Agency's Order Number for Each Order, and Extended Costs Separated by Order Dates

If a Vendor offers a discount for prompt payment, the Vendor shall include the terms of the discount on all invoices, the amounts which are due if the Buyer meets the terms, and the date for which the prompt payment discount(s) expire.

### 6.4 ORDER CHANNEL AND PAYMENT METHOD

The State expects the vast majority of orders to be submitted electronically through the State's E-Procurement System. However, the State recognizes that orders may be placed at times through alternate channels such as by phone, through email, or in person and that orders may also utilize at times a procurement card (State credit card) as a method of payment. Regardless of the order channel or payment method, the State shall receive contract pricing when purchasing contract items from the Vendor.

In order to be considered for award, the Vendor must accept Procurement/Purchasing Cards, if it accepts credit cards as a payment method from other customers.

### 6.5 TAXES

No taxes shall be included in any quote prices.

### 6.6 CONTRACT CHANGES

Contract changes, if any, over the life of the contract shall be implemented by contract amendments agreed to in writing by the State and Vendor.

### 6.7 PRICE ADJUSTMENTS

Prices proposed by the Vendor shall be firm for the **first 180 days** of the contract.

Should the vendor desire a price increase at the change of the model year, the price increase requests shall be submitted in writing to the Contract Lead, prior to the change in model year. The request shall include the reason(s) for the request and contain supporting documentation of the need. Price increases will be negotiated and agreed to by both the State and Vendor in advance of any price increase going into effect. The State is not obligated to accept pricing adjustments or increases and reserves the right to accept or reject them in part or in whole. Price de-escalation or decreases may be requested by the State at any time.

It is understood and agreed that orders will be shipped at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the Contract to cancellation.

## 6.8 POST AWARD PRODUCT SUBSTITUTIONS

Post award product substitutions are not permitted without prior written approval from the Contract Administrator. Proposed substitutions shall be at the same or higher quality and at the same or lower price as the original item. Failure of the Vendor to comply with this requirement shall constitute sufficient cause to hold the Vendor in default or for removal from the contract.

## 6.9 SALES PROMOTIONS

Vendor may conduct sales promotions involving price reductions for a term shorter than the contract term. A Vendor shall submit to the Contract Manager documentation related to the sales promotion which contains the following: (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to current contract prices. Promotional prices shall be available to all users. Upon approval of the sales promotions by the Contract Manager, the Vendor may offer the sales promotion to the State.

## 6.10 PERIODIC MANAGEMENT REVIEW MEETINGS

The Vendor, at the request of the State, shall meet periodically with the State for Management Review meetings. The purpose of these meetings will be to review the quarterly management reports, discuss Vendor performance, address issues, review sales data, review continuous improvement ideas, and discuss any other pertinent topics. These meetings will occur at a time and place approved by the State.

## 6.11 CONTINUOUS IMPROVEMENT

The State encourages the Vendor to identify opportunities to reduce the total cost the State. A continuous improvement effort consisting of various ideas to enhance business efficiencies will be discussed at the periodic Business Review Meetings.

## 6.12 LINE-ITEM CATALOG SOLUTIONS

If selected for contract award, the awarded Vendor hereby agrees to cooperate with the State and E-Procurement Services to develop a line item catalog. At a minimum, the Vendor agrees to the following:

- a. Vendor shall deliver a line item catalog **within ten (10) calendar days of notice**. By providing a line item catalog, the Vendor shall provide a list of its products/services and pricing within a specific template format to E-Procurement Services by sending the populated template to the Category Manager via email at [eprocurementdata@its.nc.gov](mailto:eprocurementdata@its.nc.gov). The State and Category Manager will confirm the accuracy of the electronic catalog before loading it into the E-Procurement system. In addition, the State or Category Manager may determine when the electronic catalog and any subsequent revisions "go live".
- b. The Vendor shall submit an updated electronic catalog from time to time or as requested by the State or Category Manager to maintain the most up-to-date version of its product/service offering under the statewide contract.
- c. The Vendor shall meet the following requirements:
  - Include in the catalog the most current pricing, including all applicable administrative fees and or discounts, as well as the most up-to-date product/service offering the Vendor is authorized to provide in accordance with the statewide contract; and
  - Maintain the accuracy of the catalog throughout the duration of the statewide contract; and
  - Include in the catalog detailed product line item descriptions; and
  - Include in the catalog any additional content required by the State or Category Manager; and
  - Limit the line item catalog content to the Vendor's statewide contract offering
- d. The State or Category Manager shall control which statewide contracts appear in the E-Procurement System and may elect at any time to remove Vendor's offering from the E-Procurement System.

### 6.13 QUARTERLY REPORTS

The Vendor shall provide Quarterly Management Reports to the designated Contract Lead and other ad hoc reports to the designated Contract Lead and/or Buyers. The Quarterly Management Report shall include, at a minimum, information on: items purchased, manufacturer product description, purchased quantities, List Price, price paid, manufacturer name, unit of measure, any additional delivery charges such as specialty packaging or overnight delivery, ordering entity, delivery location, order date, and shipment date for consumables and delivery date for non-routine consumables and submitted to the following e-mail address ([PCReports@doa.nc.gov](mailto:PCReports@doa.nc.gov)) and copy the Contract Specialist. Vendor shall include all issues identified by the Vendor related to Vendor performance or to the State's usage of the Contract.

The reports should be well organized and easy to read. The Vendor shall submit these reports electronically using Microsoft Excel and, as needed, either Microsoft PowerPoint or Word. The Vendor shall submit the Quarterly Management Reports by the 15<sup>th</sup> of the month following the end of the quarter. The Quarterly Management Report delivery schedule is included below:

- **By October 15<sup>th</sup>:** Q1 Quarterly Management Report for July – September
- **By January 15<sup>th</sup>:** Q2 Quarterly Management Report for October – December
- **By April 15<sup>th</sup>:** Q3 Quarterly Management Report for January – March
- **By July 15<sup>th</sup>:** Q4 Quarterly Management Report for April – June.

This schedule aligns with the State's fiscal year. If the Contract start date does not align with the start of a quarter the initial Quarterly Management Report will be for the period from the Contract start date to the end of the initial quarter. Additional related sales information and/or details on user purchases may be required by the State and must be supplied within 30 days upon request. A template for such report may be provided by the State at its discretion.

**Attachments to this RFQ begin on the next page.**

ATTACHMENT A: PRICING SUBMITTAL FORM

Instructions: Vendor does not have to submit a bid for all items. Vendor may duplicate lines for prices based on regions.

- a. Enter either "Brand Name" or "Generic" based on the item offered in Column D.

b. Enter Actual Container Size of item offered.

c. Enter Price per Unit of Measure (UOM) in Column C.

d. If there is an alternate product offered, complete Columns M through U.
- e. Enter Alternate Product Name.

f. Enter Alternate Product Unit of Measure (UOM) as specified in Column M.

g. Enter Alternate Product Manufacturer.

h. Enter Alternate Product Active Ingredient.
- i. Enter Alternate Product Strength.

j. Enter Alternate Product Container Size.

k. Enter Alternate Product Price per Unit of Measure (UOM) in Column O.

l. Enter Region(s) for supplying product to State Entities

Item (a)	QTY (b)	UOM (c)	Product Name (d)	Notes (e)	Type As Specified in Column d (f)	Active Ingredient (g)	Strength (h)	Desired Container Size (i)	Actual Container Size (j)	Price Per UOM Column c (k)		Alternate Product (m)	QTY (n)	UOM (o)	Type As Specified in Column m (p)	Manufacturer (q)	Active Ingredient (r)	Strength (s)	Container Size (t)	Price Per UOM Column O (u)	Regions (v)	
1	32	3# Container	Safari	labeled for forestry and soil drench for adelgids		Dinotefuran, [N-methyl-N'-nitro-N''-((tetrahydro-3-furanyl)methyl)guanidine]	20.00%	3# Container					1									
2	4	Gallon	Belt SC			flubendiamide	4 lbs. AI/Gallon	1.0 Gallon					1									
3	10	Gallon	Champion Surfactant			Alky Ployethoxy Ethers	92.00%						1									
4	10	Gallon	Eptam 7EC			EPTC		2.5 Gallon					1									
5	10	Gallon	Killzall					2.5 Gallon					1									
6	10	Gallon	Poast Plus			sethoxydim: 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3hydroxy-2-cyclohexen-1-one	13.00%	2.5 Gallon					1									
7	140	Gallon	Prefar 4EC			Bensulide	46.00%	2.5 Gallon					1									
8	70	Gallon	Prophyt			Potassium Phosphite		2.5 Gallon					1									
9	10	Gallon	Stewart EC			Indoxacarb	15.84%	2.5 Gallon					1									
10	15	Gallon	Thiram 480 DP	Conifer Seed Treatment Labeled	Brand Name	Thiram	42.00%	2.5 Gallon					1									
11	10	Gallon	Unison					2.5 Gallon					1									
12	20	Gallon	Vantage			Sethoxydim	13.00%	2.5 Gallon					1									
13	35	Gallon	Bidrin XP2			dicrotophos + bifenthrin	4 + 1 lbs. AI/Gallon	2.5 Gallon					1									
14	30	Gallon	Provost 433 SC			Prothioconazole +Tebuconazole	12.9% + 25.8%	2.5 Gallon					1									
15	20	Gallon	Strategy			ethalfuralin + clomazone	18.2% + 5.6%	2.5 Gallon					1									
16	720	Gallon	Gramoxone			Paraquat	30.10%	120 Gallon Shuttle					1									



**ATTACHMENT B: LOCATION OF WORKERS UTILIZED BY VENDOR**

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In accordance with NC General Statute §143-59.4, the Vendor shall detail the location(s) at which performance will occur, as well as the manner in which it intends to utilize resources or workers outside of the United States in the performance of this Contract. The State will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award. Please complete items a, b, and c below.

**a) Will any work under this Contract be performed outside the United States?**

☐ YES ☐ NO

If the Vendor answered "YES" above, Vendor must complete items 1 and 2 below:

1. List the location(s) outside the United States where work under this Contract will be performed by the Vendor, any sub-Contractors, employees, or other persons performing work under the Contract:
  
2. Describe the corporate structure and location of corporate employees and activities of the Vendor, its affiliates or any other sub-Contractors that will perform work outside the U.S.:

**b) The Vendor agrees to provide notice, in writing to the State, of the relocation of the Vendor, employees of the Vendor, sub-Contractors of the Vendor, or other persons performing services under the Contract outside of the United States**

☐ YES ☐ NO

NOTE: All Vendor or sub-Contractor personnel providing call or contact center services to the State of North Carolina under the Contract **shall** disclose to inbound callers the location from which the call or contact center services are being provided.

**c) Identify all U.S. locations at which performance will occur:**

**ATTACHMENT C: INSTRUCTIONS TO VENDORS**

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1. **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Vendors or elsewhere in this RFQ document.
2. **EXECUTION:** Failure to sign the Execution page (page 3 of the RFQ) in the indicated space will render quote non-responsive and it shall be rejected.
3. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this solicitation, the order of precedence shall be (high to low) (1) any special terms and conditions specific to this RFQ, including any negotiated terms; (2) specifications in Sections 2, 4, and 5 of this RFQ; (3) North Carolina General Contract Terms and Conditions in ATTACHMENT E: NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS; (4) Instructions in ATTACHMENT D: INSTRUCTIONS TO VENDORS; and (5) Vendor's quote.
4. **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor shall furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this quote, each Vendor must submit with their quote sketches, descriptive literature and/or complete specifications covering the products offered.
5. **RECYCLING AND SOURCE REDUCTION:** It is the policy of the State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will adequately protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.
6. **SUSTAINABILITY:** To support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort. Pursuant to Executive Order 156 (1999), it is desirable that all responses meet the following:
  - All copies of the quote are printed double sided.
  - All submittals and copies are printed on recycled paper with a minimum post-consumer content of 30%.
  - Unless absolutely necessary, all quotes and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
  - Materials should be submitted in a format which allows for easy removal, filing and/or recycling of paper and binder materials. Use of oversized paper is strongly discouraged unless necessary for clarity or legibility.
7. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute §143-48 and Executive Order 150 (1999), the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
8. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the State will maintain confidential trade secrets that the Vendor does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Vendor, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Vendor may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. §132-1.2. Any material labeled as confidential constitutes a representation by the Vendor that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. §132-1.2. Vendors are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible.
9. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.
10. **INFORMAL COMMENTS:** The State shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of the State during the competitive process or after award. The State is bound only by information provided in this RFQ and in formal Addenda issued.

11. **COST FOR QUOTE PREPARATION:** Any costs incurred by Vendor in preparing or submitting quotes are the Vendor's sole responsibility; the State of North Carolina will not reimburse any Vendor for any costs incurred prior to award.
12. **VENDOR'S REPRESENTATIVE:** Each Vendor shall submit with its quote the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's quote.
13. **INSPECTION AT VENDOR'S SITE:** The State reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary for the State determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.

**This Space is Intentionally Left Blank**

**ATTACHMENT D: NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS**

1. **DEFAULT AND PERFORMANCE BOND:** If, through any cause, Vendor shall fail to fulfill in timely and proper manner the obligations under this agreement, the State shall have the right to terminate this contract by giving written notice to the Vendor and specifying the effective date thereof. In case of default by the Vendor for any reason, the State may procure substitute goods from other sources and hold the Vendor responsible for any excess cost occasioned thereby. The State reserves the right to require at any time a performance bond or other acceptable alternative guarantees from a successful Vendor without expense to the State.

In addition, in the event of default by the Vendor under this Contract, the State may immediately cease doing business with the Vendor, immediately terminate for cause all existing Contracts the State has with the Vendor, and debar the Vendor from doing future business with the State. The State may take action against the Vendor under the False Claims Act, G.S. §1-605 through §1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties).

Upon the Vendor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Vendor, the State may immediately terminate, for cause, this Contract and all other existing Contracts the Vendor has with the State, and debar the Vendor from doing future business with the State.

2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the Vendor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the Vendor are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this agreement.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.
- a. G.S. §143-59.1 bars the Secretary of Administration from entering into Contracts with Vendors if the Vendor or its affiliates meet one of the conditions of G. S. §105-164.8(b) and refuses to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. §105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the Vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the quote document the Vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
  - b. All agencies participating in this Contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Vendor will be executed and returned by the using agency.
  - c. Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
5. **SITUS:** The place of this Contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in Contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **GOVERNING LAWS:** This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules.
7. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the Vendor under the Contract. Payment by some agencies may be made by procurement card, if the Vendor accepts that card (Visa, MasterCard, etc.) from other customers, and it shall be accepted by the Vendor for payment under the same terms and conditions as any other method of payment accepted by the Vendor. If payment is made by procurement card, then payment may be processed immediately by the Vendor.
8. **AFFIRMATIVE ACTION:** The Vendor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.

9. **CONDITION AND PACKAGING:** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.
10. **STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

The complete product(s) offered herein, and NOT merely its component parts or subsystems, must comply with the above requirement for safety listing. Having the appropriate certification or safety label affixed to any device delivered pursuant to this solicitation, under the conditions described above, is a material condition of any contract awarded as a result of this solicitation. All costs for product and industry certifications and listings, and any other actions required to supply conforming products to the State as described in this RFQ, are the sole responsibility of the Vendor. The certification or safety label shall be affixed and be visible on the OUTSIDE of the all products that require a certification or safety label in order to pass the State Quality Acceptance Inspection.

11. **INTELLECTUAL PROPERTY INDEMNITY:** Vendor shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract.
12. **ADVERTISING:** Vendor agrees not to use the existence of this Contract or the name of the State of North Carolina as part of any commercial advertising or marketing of products or services. A Vendor may inquire whether the State is willing to act as a reference by providing factual information directly to other prospective customers.
13. **ACCESS TO PERSONS AND RECORDS:** During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Contract to verify accounts and data affecting fees or performance under the Contract, as provided in G. S. §143-49(9).
14. **ASSIGNMENT:** No assignment of the Vendor's obligations or the Vendor's right to receive payment hereunder shall be permitted.

However, upon written request approved by the issuing purchasing authority and solely as a convenience to the Vendor, the State may:

- a. Forward the Vendor's payment check directly to any person or entity designated by the Vendor, and
- b. Include any person or entity designated by Vendor as a joint payee on the Vendor's payment check. In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, the State may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Vendor's assets. Any purported assignment made in violation of this provision shall be void and a material breach of this Contract.

15. **INSURANCE:**

**COVERAGE** - During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:

- a. **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sublet, the Vendor shall require the sub-Contractor to provide the same coverage for any of his employees engaged in any work under the Contract.

b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)

c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

**REQUIREMENTS** - Providing and maintaining adequate insurance coverage is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.

16. **GENERAL INDEMNITY:** The Vendor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Vendor in the performance of this Contract and that are attributable to the negligence or intentionally tortious acts of the Vendor provided that the Vendor is notified in writing within 30 days that the State has knowledge of such claims. The Vendor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of Vendor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this Contract.

17. **ELECTRONIC PROCUREMENT:** (a) Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. The Vendor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

(b) **THE SUCCESSFUL BIDDER(S) SHALL PAY A TRANSACTION FEE OF 1.75% (.0175) ON THE TOTAL DOLLAR AMOUNT (EXCLUDING SALES TAXES) OF GOODS INCLUDED ON EACH PURCHASE ORDER ISSUED THROUGH THE STATEWIDE E-PROCUREMENT SERVICE.** This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. The transaction fee shall not be stated or included as a separate item on the invoice. There are no additional fees or charges to the Vendor for the services rendered by the Supplier Manager under this contract. Vendor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the Vendor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the contract.

(c) Vendor or its Authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on a) purchase activity for the prior month, or b) purchases for which the supplier invoice has been paid. Unless Supplier Manager receives written notice from the Vendor identifying with specificity any errors in an invoice for the transaction fee within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Vendor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Vendor is due to the account designated by the State within thirty (30) days after receipt of the invoice for the transaction fee. If payment of the transaction fee is not received by the State within this payment period, it shall be considered a material breach of contract. Pursuant to North Carolina General Statute §147-86.23, the Service will charge interest and late payment penalties on past due balances. Interest shall be charged at the rate set by the Secretary of Revenue pursuant to N.C.G.S. §105-241.21 as of the date the balances are past due. The late-payment penalty will be ten percent (10%) of the account receivable. Within thirty (30) days of the receipt of invoice, Vendor may dispute in writing the accuracy of an invoice. No interest shall be charged on disputed and overdue amounts to the extent the State agrees to reduce or adjust the amount in dispute. The Supplier Manager shall provide, whenever reasonably requested by the Vendor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.

(d) The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate Vendor on State Contract. The State or State-approved user, not the Supplier Manager, shall be responsible for the solicitation, quotes received, evaluation of quotes received, award of contract, and the payment for goods delivered.

(e) Vendor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If Vendor is a corporation, partnership or other legal entity, then the Vendor may authorize its employees to use its password. Vendor shall be responsible for all activity and all charges by such employees. Vendor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the Vendor's account, Vendor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Vendor shall cooperate with the State and the Supplier Manager to mitigate and correct any security breach.

**VENDOR IS AND SHALL REMAIN RESPONSIBLE FOR PAYING THE TRANSACTION FEE ON BEHALF OF ANY SUB-CONTRACTOR OR DEALER INVOLVED IN PERFORMANCE UNDER THIS CONTRACT IN THE EVENT THAT SUCH SUB-CONTRACTOR OR DEALER DEFAULTS ON PAYMENT.**

**18. COMPLIANCE WITH LAWS:** Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and performance in accordance with this contract, including those of federal, state, and local agencies having jurisdiction and/or authority.

**19. ENTIRE AGREEMENT:** This RFQ and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This RFQ, any Addenda hereto, and the Vendor's quotes are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

**20. AMENDMENTS:** This contract may be amended only by written amendments duly executed by the State and the Vendor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through its office.

**21. WAIVER:** The failure to enforce or the waiver by the State of any right or of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

**22. FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**ATTACHMENT E: IRAN DIVESTMENT ACT**

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**CERTIFICATION OF ELIGIBILITY  
Under the Iran Divestment Act**

Pursuant to G.S. 143C-6A-6, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 143C-6A-4, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 143C-6A-1 *et seq.* requires that each vendor, prior to contracting with the State certify, and the undersigned on behalf of the Vendor does hereby certify, to the following:

1. that the vendor is not identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
2. that the vendor shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
3. that the undersigned is authorized by the Vendor to make this Certification.

Vendor: \_\_\_\_\_

By: \_\_\_\_\_  
Signature Date\_\_\_\_\_  
Printed Name Title

The State Treasurer's Final Divestment List can be found on the State Treasurer's website <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx> and will be updated every 180 days. For questions about the Department of State Treasurer's Iran Divestment Policy, please contact Meryl Murtagh at [Meryl.Murtagh@nctreasurer.com](mailto:Meryl.Murtagh@nctreasurer.com) or (919) 814-3852.



**ATTACHMENT F: CERTIFICATION OF FINANCIAL CONDITION**

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Name of Vendor: \_\_\_\_\_

The undersigned hereby certifies that: [check all applicable boxes]

- ☐ The Vendor is in sound financial condition and received an unqualified audit opinion for the latest audit of its financial statements.

Date of latest audit: \_\_\_\_\_

- ☐ The Vendor has no outstanding liabilities to the Internal Revenue Service or other government entities.
- ☐ The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.
- ☐ The Vendor has not been the subject of any past litigation or findings of any past litigation or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.
- ☐ He or she is authorized to make the foregoing statements on behalf of the Vendor.

**If any one or more of the foregoing boxes is NOT checked, Vendor shall explain the reason in the space below:**

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\_\_\_\_\_  
Signature Date\_\_\_\_\_  
Printed Name Title**[This Certification Must Be Signed By the Same Individual Who Signed the Quote Execution Page.]**

## **ATTACHMENT G: SUPPLIER INFORMATION**

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Vendor is requested to complete the following forms:

- NC Supplier Contact Form (Worksheet 1)
- Service and Distribution Form (Worksheet 2)
- Ordering Information Form (Worksheet 3)

Click on the following link to access this Excel Spreadsheet, [ATTACHMENT G: SUPPLIER INFORMATION](#)

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